

MINUTES

PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, NOVEMBER 17, 2005, 10:00 A.M. CITY HALL 8TH FLOOR – COMMISSION CONFERENCE ROOM

Members Present:

Peter R. Partington, City Engineer
Tony Irvine, City Surveyor
Kathy Connor, Parks Supervisor,
Julie Leonard, Assistant Utilities Services Director
James Cromar, Planner III
Tom Terrell, Public Works Maintenance Manager

Staff Present:

Victor Volpi, Senior Real Estate Officer
Ed Udvardy, Manager of General Services
Judy Johnson, Administrative Assistant I
Ella Parker, Planner II
Rafeela Persaud, Word Processing Secretary

Guests Present:

Theodorea Emery
Don Bastedo
Hugh Chappell
Adam Hamilton
Gina Rombley
Denise Bas
David Aulo
Heidi Davis
Damon Ricks
Ed Ploski
Steve Hoffman
Robert Lochrie
Elliott Lupkin
Rudolph Frei
Richard Mancuso

Peter Partington called the meeting at 10:10 A.M. and stated that this is a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way.

Victor Volpi said there would no representatives from the City Attorney's office for this meeting.

ITEM ONE: **APPROVAL OF OCTOBER 20, 2005 MINUTES**

**MOTION BY KATHY CONNOR TO APPROVE THE MINUTES. SECONDED BY JULIE LEONARD.
MOTION PASSED UNANIMOUSLY.**

ITEM TWO: **VACATION OF EASEMENT**

Victor Volpi introduced item stating Mr. & Mrs. Rombly would like a positive recommendation to vacate the alley in Block 126 of Progresso, Plat Book 2, Page 15. He stated the alley is between NW 12 and 13 Streets and NW 6 and 7 Avenues. Victor Volpi introduced Gina Rombly.

Mrs. Rombly said that after trying to obtain a permit to put up a fence, she was informed of a 7-foot easement and needed to vacate the alley in order to obtain the permit for a fence. Ms. Rombly said each property owner already has a fence positioned on his property line. Peter Partington asked if there were any utilities in the alley. Tony Irvine said no. Peter Partington asked the width of the alley. Tony Irvine was said it was 7-1/2 foot at the rear from each lot. Peter Partington clarified that this item was to vacate the entire alley between NW 12 and 13 Streets and NW 6 and 7 Avenues, and if vacated, all property owners adjoining the alley would be required to move their fence to the center point. Tony Irvine said presumably, the fences were placed without a benefit of a permit.

Discussion followed as to the letters from the franchise utilities' companies, to retain an easement, illegal fences in the existing alley, and letters of consent from adjoining property owners if the alley was vacated.

MOTION BY TONY IRVINE TO RECOMMEND APROVAL OF THE VACATION OF ALLEY WITH THE PROVISION THAT IT GOES THROUGH THE PROPER CHANNELS FOR UTILITY SIGN-OFFS AND RELOCATION OR RETAINAGE OF EASEMENTS. SECONDED BY TOM TERRELL.

James Cromar said typically, Planning Department does not support right-of-way vacations without more information but once this application goes forward to the DRC for approval, more information would be available at that point. Kathy Connor stated Parks and Recreation Department was also reserving judgment on vacations of alleys due to greenways' plans.

Tony Irvine asked if the applicant was aware of the costs of vacating the alley. Victor Volpi suggested getting the homeowners association involved.

Discussion followed as to the homeowners association for the area which would be South Middle River Civic Association, and having the homeowners association apply for the vacation.

Yeas: Peter Partington, Tom Terrell, Tony Irvine, Julie Leonard
Nays: Kathy Connor, James Cromar

MOTION PASSED.

ITEM THREE: **DONATION OF PROPERTY**

This item was removed from the agenda at the applicant's request (see Agenda for 11.17.05 for Details of item).

ITEM FOUR: **VACATION OF 5-FOOT UTILITY EASEMENT**

Victor Volpi introduced item stating that Ed Ploski would like a positive recommendation for his client Preste Corporation to vacate a portion of the platted 5-foot utility easement as shown on the exhibit (Exhibit C). He said this is an effort to create a more uniform development. Victor Volpi introduced Ed Ploski.

Mr. Ploski said the property was currently a parking lot with retail use and would be redeveloped into a condominium, and a portion of the easement was vacated by the City in 1978. Mr. Ploski stated his request was to vacate the remaining portion. Mr. Ploski said the new development would be a 2-story parking garage and a 5-story condominium. Mr. Ploski said after checking with the Engineering Department, it was determined that there were no water/sewer/drainage lines and no-objection letters have been sent out to the utility companies. Mr. Ploski said if there were any utilities in the area, his client would pay for the relocation of the utilities.

James Cromar said the application package had requested a Planned Unit Development (PUD), was before the Development Review Committee (DRC) and was currently through the Planning and Zoning (P&Z) process.

Tony Irvine asked if there were any concerns expressed by DRC Committee via the PUD application that would affect the vacation. James Cromar said Hal Barnes, Capital Improvement Project Program, has a plan for an area that included Bridgeside Square and the applicant has coordinated with Hal Barnes and their proposal.

Peter Partington asked about the plat and verified there were no utilities.

Discussion followed as to the partial vacation and granting an easement.

MOTION BY TONY IRVINE TO RECOMMEND APPROVAL OF THE VACATION OF PORTIONS OF THE PLATTED UTILITY EASEMENT AS SHOWN ON THE APPLICANT'S DRAWINGS. SECONDED BY JULIE LEONARD.

MOTION PASSED UNANIMOUSLY.

ITEM FIVE: **VACATION OF ALLEY AND VACATION OF AIR RIGHTS FOR A PEDESTRIAN BRIDGE**

Victor Volpi introduced item stating that Heidi Davis Knapik of Gunster Yoakley, would like a positive recommendation to vacate a portion of the alley in Block 34 of Colee Hammock, 1-17, so that her client, First Presbyterian Church may construct a fellowship hall. He stated all utilities will be

relocated and an ingress/egress easement will be dedicated for public traffic (see "loading lane" on plans shown on the exhibit, Exhibit D). He said the Church also intends to construct a pedestrian bridge over SE 4 Street to connect the new parking garage and development to older buildings as shown on the same plans (Exhibit D), and they would like a positive recommendation for both the partial vacation and an agreement to allow the construction and maintenance of the bridge. Victor Volpi introduced Heidi Davis from Gunster Yoakley.

Ms. Davis introduced Hugh Chappell from First Presbyterian Church, Denise Bas, from STH Architect and Damon Ricks, from Flynn Engineering. Ms. Davis said there were two items and was part of a PUD, went through the DRC process two weeks ago, and will be before the DRC Committee for the vacation of the portion of the alley and air rights easement agreement in January.

Vacation of Alley

Ms. Davis said regarding the vacation of the portion of the alley, the First Presbyterian owns the properties on both sides of the alleyway, lots 6 through 12, 13, 14, and 15. Ms. Davis stated it was a 10-foot one-way alleyway. Ms. Davis said access would be provided from Las Olas Boulevard, take traffic off of Tarpon, add an ingress easement to allow the retail establishments to continue to service the alley, no interruption of the public purpose and an easement would be granted for the public, and all utilities would be relocated.

Peter Partington asked if the alley to the east was an active alleyway and would it be dead-ended into the new access driveway. Ms. Davis said the alley was one way (south and east). James Cromar asked if the easement would be in line with the existing metered parking area. Mr. Ricks said the metered parking was on lot 6. Ms. Davis said in the new design plan, parking for the retail establishments would be provided. Peter Partington said in principle, partial vacation of alleys are not granted and asked if the vacated portion of the alley would be replaced with a public easement over all or part of the driveway on east Las Olas South. Ms. Davis said yes.

Mr. Chappell said there was an existing alley and a traffic study was done and traffic does flow through the parking lot. Peter Partington said his concern was having a dead-ended alley and any future closing of the driveway to the east which would cut off service to the alley. Ms. Davis said the driveway would serve the new project and would need to maintain for the flow of the new project. Peter Partington said as part of the proposed motion of the vacation, one of the conditions should be to obtain an easement over all or part the driveway from Las Olas Boulevard, connecting to the existing alley.

Julie Leonard asked who was the contact person at the City regarding relocating the utilities as there is a sewer going down the alley. Mr. Ricks said they are working with Tim Welch and WaterWorks 2011.

Ms. Theodora Emery said she was from the Colee Hammock Association and said the feeling of the Association was that the Church should stay within the existing zoning. Peter Partington stated that zoning was a different issue and does not pertain to the PROW Committee.

Tony Irvine asked about the criteria necessary for the vacation of an alley. James Cromar stated the five criteria for a vacation of an alley. Kathy Connor questioned the parking spaces in the garage. Ms. Davis said even though 333 spaces were required, 393 parking spaces would be provided for the expansion purposes. Ms. Davis said that liability issues would have to be discussed before allowing

the public to use the parking spaces. Mr. Chappell said the parking spaces would not be allowed to be allocated to any other projects. James Cromar said there would be issues with the existing land use designation and the proposed parking garage that might serve other purposes beyond Church parking. He said this has not been resolved.

Tom Terrell asked about the expenses when relocating the utilities. Mr. Ricks said the Church would cover all costs. Ms. Davis stated all criteria for a vacation have been met: the alley owned on both sides by the Church was no longer needed for public purpose, and are providing an alternate route from Las Olas Boulevard to the alley, the alley will be one way and all will be serviced, the utilities would be relocated and the closure of the right-of-way did not adversely impact pedestrian traffic. Ms. Davis said the upcoming PUD plan would allow an entire pedestrian circulation along Las Olas Boulevard. Ms. Davis said the closure of the right-of-way would provide a safe turnaround for the vehicles to exit the area. Peter Partington asked about large trucks being able to turn into the alley. Tony Irvine asked if the alley was used by pedestrian heading south and west of the area to access the businesses. Ms. Davis said no. Tony Irvine suggested the traffic study be reviewed regarding future events at the Fellowship Hall which may create a congestion on Las Olas Boulevard. Peter Partington reiterated the Committee's concern regarding traffic congestion on East Las Olas Boulevard. James Cromar reviewed criteria two and four which addressed traffic for a vacation.

MOTION BY TONY IRVINE TO RECOMMEND APPROVAL OF THE APPLICATION TO VACATE THE ALLEY AS SHOWN, WITH AN ALTERNATE EASEMENT GRANTED TO ROUTE TRAFFIC FROM LAS OLAS BOULEVARD, WITH CERTAIN PROVISIONS: 1) THE VACATION DOES NOT PROCEED UNTIL THE PUD AND ZONING AND LAND USE ISSUES HAVE BEEN RESOLVED AT DRC; 2) SEND A NOTE TO DRC THAT THERE ARE CONCERNS ABOUT THE TRAFFIC PATTERN THAT WOULD BE GENERATED BY THE ALTERNATE ENTRANCE. SECONDED BY TOM TERELL

MOTION AMENDED BY PETER PARTINGTON TO ADD: THAT THE DRIVEWAY AND THE EXISTING ALLEY SHOULD BE DESIGNED SO THAT TRUCKS SERVICING PROPERTIES TO THE EAST SHOULD BE LOOKED AT BY THE DRC (SINCE IT WOULD BE A DESIGN ISSUE). SECONDED BY TOM TERELL.

Yeas: Peter Partington, Tony Irvine, Julie Leonard, Tom Terrell
Nays: James Cromar, Kathy Connor

MOTION PASSED.

Vacation of Air Rights

Ms. Davis said they would like to vacate the air rights above SE 4th Street to connect the parking garage to the existing Worship Center. Ms. Davis said the proposed pedestrian bridge would provide direct access from the parking garage to the Church, in cases of rain and inclement weather. Victor Volpi asked if the bridge would be closed to the public. Ms. Davis said the members of the Church would be using the bridge. Ms. Davis said it would be a license agreement with the City to construct the bridge.

Tony Irvine said he would need to defer this item due to no representatives from the City Attorney's office. He said typically, the pedestrian bridge was adopted for quasi public purposes.

**MOTION BY TONY IRVINE TO DEFER. SECONDED BY KATHY CONNOR.
MOTION PASSED UNANIMOUSLY**

Peter Partington asked about the parking issues on 4th Street and asked if the parking spaces being created would be indented to the north of the existing codeline. Mr. Ricks said yes. Peter Partington said the City is in the process of switching the on-street parking to the southside of the road. He asked about the parking spaces on East Las Olas Boulevard. Peter Partington said the parking and the curblin, relative to the City's plans for Las Olas Boulevard would need to be reviewed, specifically for any future plans for placing medians on Las Olas, which would affect the parking on Las Olas Boulevard.

Tony Irvine said the sketch for the pedestrian bridge needed to have vertical limits and should be 18-feet.

Peter Partington said one of his concerns was the positioning of entry onto 4th Street and the intersection of 15th Avenue. He said pedestrians along 15th Avenue, the sidewalk, and traffic existing from the garage would need to be considered.

Victor Volpi said he would need a signed, sealed survey and a copy of the easement document.

Clarifications followed as to any elevation problems, steps and ramps being placed to the center of corridor, development being higher for flood reasons, the public space being at the same grade, and the retail frontage being store fronts.

ITEM SIX **VACATION OF ALLEY**

Victor Volpi introduced item stating that Damon Ricks would like a positive recommendation to vacate a portion of the platted alley between Andrews and NE 1 Avenues, and NE 6 and 7 Streets. He stated the owner intends to construct a tower over the alley, will relocate any utilities and dedicate 10-feet of the northeast corner of his parcel for utilities and ingress/egress. Victor Volpi introduced Damon Ricks and Robert Lochrie.

Mr. Lochrie explained that this was a site that the County had allocated funds to purchase in order to build affordable housing project. Mr. Lochrie said due to the design of the project, a vacation of a portion of the alley is required. Mr. Lochrie said that the alley to the north was already vacated. Mr. Lochrie said there was a gap between the portions of the proposed vacation and the already vacated alley. Mr. Lochrie said there is existing sewer utilities in the alley and they are proposing to dedicate a new easement to the north of the applicant's property to the street to connect to the City system, on Lot 17.

Peter Partington asked what utilities are in the alley and the replacement. Mr. Lochrie explained the existing alley has a sewer and they would be relocating the sewer to 1st. Peter Partington clarified that a 15-foot utility easement would be given.

Discussion followed as to the discrepancy on the vacation documents submitted, the vacated portion of the alley to the north did not directly abut the property, Children's Theater entering into the an

amended application, plans regarding the relocation of the sewer, the depth of the manhole, constructing a tower over the existing alley, and the width of the replacement of the utility easement.

MOTION BY TOM TERRELL TO RECOMMEND APPROVAL OF THE VACATION OF ALLEY AS PROPOSED, WITH THE INCLUSION OF A UTILITY EASEMENT WHICH ALLOWS A MINIMUM OF 7-1/2 FOOT WIDE UTILITY EASEMENT ON EITHER SIDE OF ANY UTILITIES INSTALLED WITHIN THE EASEMENT (WHERE THE GRAVITY SEWER IS INSTALLED). SECONDED BY TONY IRVINE.

Yeas: Peter Partington, Tony Irvine, Julie Leonard, Tom Terrell
Nays: James Cromar, Kathy Connor

ITEM SEVEN: VACATION OF EASEMENT

Victor Volpi stated on July 6, 2000, Ordinance No. C-00-29 was signed that vacated a portion of Flamingo Avenue shown on the exhibit (Exhibit F). He said a Declaration of Pedestrian Access Easement, a covenant that runs with the land, was later recorded to assure the neighborhood access to the beach by Yasat USA, Inc. He said Yasat USA Inc., has since sold the property and Yasat USA Inc., has sold the property (south of the vacated portion of road) to Flamingo West LLC who wish to vacate the portion of retained easement that was not a pedestrian easement, but includes the only sidewalk. He said they intend to improve the pedestrian easement as promised or better than the Declaration of Pedestrian Access Easement; to date there are no improvements there at all. Victor Volpi introduced Steven Hoffman, representing the developer and Don Bastedo, of the Homeowner's Association.

Mr. Hoffman said in 2000, the right-of-way was vacated and a pedestrian easement was obtained over the portion of the vacated alleyway. Mr. Hoffman said he would like to vacate a portion of the utility easement that was retained over the 35-feet, with no impacts to the pedestrian easement. Mr. Hoffman said the pedestrian easement would be improved and the landscaping has been enhanced in the new design.

Discussion followed as to the original improvements never being completed, a split in the pedestrian easement, the purpose of vacating the utility easement and how it would affect the building design, and the width of the original right-of-way which was 35-feet.

Tony Irvine said according to the ordinance, the right-of-way was not vacated.

Mr. Don Bastedo said there were a few major questions the Homeowners Association have about the developer's plan, such as why they were not approached about the vacation, the requesting of a variance survey and moving of the building onto a vacated land. He said Flamingo was the only direct access to the ocean. Mr. Bastedo said in 1993, Flamingo was closed off due to nuisance traffic and landscaped. He said there is a park on the western border of 34th Avenue; a 15-foot strip of land from Flamingo south to 36 Street, classified as RA (privately owned). Mr. Bastedo said the area was vacant for a long time. He said Yasat's original plan was turned down due to insufficient parking and explained how the community attempted to work with Yasat in accomplishing approval of the plan. Mr. Bastedo said the community has alot invested in this pedestrian access easement, A1A. He said

the community feels it was not given sufficient time or information to understand the new plan. Mr. Bastedo said the Board members were very confused about the application due to different site plans being distributed.

Discussion followed regarding the new design/plan; the floor (3 over 1), the design, the importance of the pedestrian easement, enhanced landscaping design and maintenance of the landscaping, issues of lighting and distance between the property line and edge of sidewalk.

James Cromar said the project has gone through the DRC process and the Engineer Reviewers wanted clarification on the easement issue. He said there was discussion on the pedestrian access and the Engineer Reviewers did sign off on the agreement, assuming all the easements would be taken care of. He said one of the questions was for the applicant to present the plan to the neighborhood. James asked if there was any contact with the neighborhood association. Mr. Bastedo said no.

Discussion followed as to the DRC meeting and if any members of the homeowners association were present and the DRC process about notifications of their meetings.

Mr. Elliott Lupkin said he is a homeowner in the neighborhood and directly behind his house is a cul-de-sac, that leads to a walkway. Mr. Lupkin there were two access points into the neighborhood. Mr. Lupkin said his concern was the cul-de-sac and on behalf of the association, would like to know what was being built and what is being encroached upon.

Peter Partington said the neighborhood should be informed and the neighborhood association would like more information.

Mr. Bastedo said the site plans presented by developer today were different than what he has and asked about not getting information about the DRC meeting that had occurred. Mr. Bastedo said the applicant wanted to close the current exit.

Peter Partington said there are number of things that need to be discussed and one of them is whether the Committee wants to consider this item prior to the right-of-way vacation being enacted as the City Surveyor has pointed out the right-of-way which is now in effect. Peter Partington said it is important to discuss the item while a number of relevant people are present.

Mr. Rudolph Frie, HOA Board member, said the neighborhood needs to know what was being built in order to decide if it was in their favor.

James Cromar said an easement vacation does go to the City Commission and does not go to the Planning and Zoning (P&Z) Board. He said the notification requirement for a vacation of public easement would be an agenda posting and no mail notices given out. He said an easement vacation would be listed as a resolution on the Commission agenda, with public comments. Peter Partington said a vacation of a right-of-way goes through three public hearings.

James Cromar said the initial design as it came through DRC, the applicant requesting modification of required yard, would have required a Planning & Zoning Hearing. He said the applicant did change the design and could now get DRC approval at the staff level without any public hearing. He said final approval includes the sign off from various disciplines, which has not been completed yet.

Tony Irvine said there are utilities (an 8-inch water main) in the area and opposed to constrict the walkway. He said the neighborhood needed a safe, attractive walkway out of the neighborhood.

Discussion followed as to relocating the water main into the pedestrian easement, taking away too much right-of-way from the neighborhood, the building being 10-15 feet further north, reasons for vacating the utility easement, less asphalt parking with the current proposed design as compared to the original design and the original design having a taller building.

James Cromar said the existing conditions were looked at by DRC and the Case Reviewer, and they viewed it as an improvement and some benefits to the community. He said he would also like to clarify in DRC review, questioning the utility easement to the south of the previous right-of-way, so that some of the vacation moves it off of what would have been a developable portion of the property. Steve Hoffman said that was correct and explained changes in current design compared to original design.

Peter Partington summarized saying that the applicant needs to give more information to the neighborhood regarding the design and plans, the impact of vacating more of the easement as it would constrict the physical appearance for the public's ability to use the area, and the City's ability to have utilities; also, the matter of a vacation of the right-of-way that supposedly did not take place. He said the neighborhood was happy with the original plan and the need to revisit the entire vacation issue to decide if the right-of-way needs to stay intact.

Tony Irvine said the applicant is proposing to reduce the (wide) open area which would have pedestrians and/or pipes located in the easement, the building was moving considerably north and how the building should be 35 feet from the edge and be retained as an easement. He also said the parking and landscaping would be impacted. Discussion followed regarding the concession the neighborhood made in respect to original plan and the design of the current plan.

Peter Partington said this item needed to be deferred in order for the applicant to work with the neighborhood and there are some oppositions with the PROW Committee.

Mr. Bastedo said currently, there was a tunnel vision and with the neighborhood giving the concession on the original plan, there would have been open area.

Tom Terrell said the applicant does have an option to withdraw the item and return at a later date.

Peter Partington said there were three (3) options:

- a) to withdraw item;
- b) have the Committee vote to defer item; or
- c) have the Committee vote positive or negative on the item.

Steven Hoffman said he would like to resolve the right-of-way issue and confirm that the DRC comments would be addressed properly. Tony Irvine suggested the utilities issues be addressed also.

Steven Hoffman decided to withdraw item.

Walk On Item

Victor Volpi said after the PROW Committee has approved the minutes, the minutes would be posted on the City of Fort Lauderdale website.

Motion to Adjourn at 12:13 pm